



U.S. FISH AND WILDLIFE SERVICE TRANSMITTAL SHEET

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| PART | SUBJECT | RELEASE NUMBER |
| 212 FW 4 | Ethics | 365 |
| FOR FURTHER INFORMATION CONTACT | Participation in Outside Organizations | DATE |
| Division of Personnel | | March 28, 2001 |

EXPLANATION OF MATERIAL TRANSMITTED:

This chapter establishes policy concerning employee participation in outside organizations and provides procedures for approval to serve as officers in private sector organizations/professional associations while on official duty time.

This chapter supersedes Director's Order 107, December 12, 1998.

Acting
Deputy

K. Clams
DIRECTOR

FILING INSTRUCTIONS:

Remove:

None

Insert:

212 FW 4, 03/28/01, FWM 365 (2 pages)
Exhibit 1, 212 FW 4, 03/28/01, FWM 365 (2 pages)
Exhibit 2, 212 FW 4, 03/28/01, FWM 365 (1 page)

**FISH AND WILDLIFE SERVICE
GENERAL ADMINISTRATION**

General Administration

Part 212 Ethics

Chapter 4 Participation in Outside Organizations

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4.1 What is the purpose of this chapter? This chapter establishes Fish and Wildlife Service policy concerning participation of employees in outside organizations, as well as procedures for approval to serve as officers in private sector organizations/professional associations while on official duty time.

4.2 To whom does this chapter apply? This chapter applies to all employees.

4.3 What authorities govern participation in outside organizations?

A. 5 CFR Part 2635.806, Subpart H, Participation in Professional Associations.

B. Memorandum from the Deputy Assistant Attorney General, Office of Legal Counsel, to the General Counsel, Federal Bureau of Investigation, November 10, 1996.

C. Department of the Interior Ethics and Conduct Information Bulletin No. 91-2, July 1991.

4.4 What is the Service's policy for employee participation in outside organizations? Employee participation in outside organizations can serve to promote individual growth and development as well as enhance the ability of the Service to accomplish its mission. We encourage employees to become involved in professional associations and may authorize official Government time to perform the duties associated with such affiliation, if you meet the conditions of this chapter and the involvement does not result in a direct conflict of interest or create the appearance thereof. When we grant official time to you for service in a private sector organization, especially service as an officer, the primary beneficiary of your services must be the programs and operations of the Department and the Service, and not you or the outside organization.

4.5 What are the definitions of terms used in this chapter?

A. Community Organization. An organization, such as Lion's Club, Kiwanis Club, chambers of commerce, or similar organizations, that furthers community well-being and whose purpose and objectives are consistent with those of the Service.

B. Private Sector Organization. An organization other than a labor organization, regardless of its tax or profit status, that can provide information, views, and services that will contribute to improved operations of the Service and employees' effectiveness.

C. Professional Association. Synonymous with private sector organization defined above.

D. Outside Organization. Synonymous with private sector organization defined above.

E. Officer. The president, vice president, secretary, treasurer, trustee, board of directors, ex-officio officer, or director of a private sector organization, or any other position that carries fiduciary duties.

F. Official Representative. An employee who we designate to serve on behalf of the Service as an officer or member of a private sector organization. Either management or the employee may initiate this designation, which must be based on management's determination that it is in the Government's best interest.

G. Particular Matter. Includes any contract, case, audit, review, study, ruling, or other determination or other work activities that are specific in nature. That is, they have a beginning, middle, and end.

4.6 What are the responsibilities of designated ethics counselors?

A. The Deputy Ethics Counselor is responsible for final approval of all 18 U.S.C. 208(b) waivers and Memorandums of Understanding (MOU's) regarding participation in outside organizations.

B. Associate and Assistant Ethics Counselors will review 18 U.S.C. 208(b) waivers and MOU's for technical accuracy in accordance with the provisions of this chapter. Associate and Assistant Ethics Counselors are responsible for determining if an employee is exempt from the requirement for a waiver and MOU.

4.7 What are the responsibilities of supervisors and employees?

A. Supervisors will ensure that it is in the best interest of the Service if an employee is granted official duty time or excused absence to participate in a private sector organization.

B. Employees must follow the appropriate approval procedures to participate in private sector organizations while on official time. Employees are also responsible for adhering to the pertinent ethics and conduct rules and statutes to avoid a conflict of interest or the appearance of one.

4.8 Can I join community organizations? You may join any community organization if the membership is for you, membership dues are paid by you, and the membership does not in any way imply membership as an employee of the Service. As a member of a community organizations, you must express all views as those of yourself and not as those of the Service. If you pay your own membership dues, you may not lawfully represent the organization before a Federal

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agency, except in limited circumstances. Refer questions regarding a specific representation situation to the appropriate servicing ethics counselor.

4.9 Who can authorize the use of appropriated funds for membership fees? Regional Directors or Assistant Directors may authorize the use of appropriated funds to secure Service membership in community organizations, if he/she determines it is in the best interest of the Service and such action will promote outreach to members of the local community and encourage better understanding and cooperation. Regional Directors and Assistant Directors will make this determination on a case-by-case basis, and they cannot redelegate this authority. You must establish the membership in the name of the Service. You cannot use appropriated funds to establish memberships in the name of any individual, although we may designate a Service employee or employees to represent the Service at meetings and functions of the community organization. Any individual who represents the Service must advocate the position of the Service when representing the organization before any agency or any other entity.

4.10 Must I recuse myself from working on any matters? If you have an individual membership in a community organization and serve as an officer, director, trustee, or employee, you must recuse yourself from working on any particular matter as a Government employee when the organization in which you are serving has a financial interest in those Government matters.

4.11 Will the Government represent me in legal matters? When you establish an individual membership, it is very unlikely that the Government will provide legal representation to you in the event that someone files a law suit against the community organization or you as the result of your activities with the community organization. Even when you are a Service representative, a case-by-case determination regarding Government legal representation will have to be made.

4.12 When can I participate in private sector organizations? You may serve in professional organizations under three different circumstances:

- A.** You participate in the outside organization in your private capacity and not on Government time.
- B.** You participate in the outside organization in your private capacity; however, your supervisor allows official time for you to attend an outside function of the association, such as a meeting or convention, when he/she determines that it is in the best interest of the Government.
- C.** We require you to participate in the outside organization in your official capacity, as a representative of the Service.

4.13 Do I need approval to serve as an officer in an outside organization? If you want or if we require you to serve as an officer in an outside organization while on official Government duty time, you must:

- A.** Have a waiver of the conflict of interest prohibition at 18 U.S.C. 208(b) signed by the Service Deputy Ethics Counselor. (See Exhibit 1 for a sample waiver letter.)
- B.** Have a written MOU between the Service and the organization in which you want to serve as an officer. (See Exhibit 2 for a sample MOU.)
- C.** Secure training from the appropriate Ethics Counselor.

4.14 What must I include in the MOU? At a minimum, the MOU must contain.

- A.** Name(s) of the employee(s) and the professional association.
- B.** The programmatic benefits to the Service that will result from your participation in the professional association. While we recognize that your professional enhancement will ultimately benefit the Government, the required programmatic benefit to the Service must consist of more than individual growth and development.
- C.** The relevant ethics and conduct rules and statutes that employees must be aware of and comply with in order to prevent a conflict of interest or the appearance thereof.
- D.** A termination date (the date your appointment with the professional organization expires) or a date upon which the MOU will be reviewed for any modification and recertification if your appointment is indefinite (2 years from the date of the MOU's execution, and every 2 years thereafter until termination of your appointment).
- E.** Signature blocks for you, your supervisor, the Regional Assistant Ethics Counselor or the Associate Ethics Counselor (for Washington Office employees), the Deputy Ethics Counselor, and a representative of the professional association.

4.15 Do I have to take ethics training? If the MOU contains the relevant conflict of interest rules and statutes and an Assistant/Associate Ethics Counselor is available to you for any questions, we consider that you have acquired the appropriate ethics training.

4.16 Who must review and approve an MOU and waiver? Forward the MOU and waiver through appropriate channels to the Regional Assistant Ethics Counselor or Associate Ethics Counselor (for Washington Office employees) for concurrence and submission to the Deputy Ethics Counselor for final approval.

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4.17 Are there exemptions from the requirement for an MOU and waiver?

A. You may serve in an official capacity as an officer, director, or trustee if a Federal statute expressly authorizes such service, such as in an ex officio capacity.

B. You may serve in an official capacity as an officer, director, or trustee if applicable State law permits the outside organization to release you from all fiduciary responsibilities and the organization does so.

C. We may assign you to serve as a Federal liaison to the outside entity; e.g., where you have no fiduciary duties. In this capacity, you would be the Service representative to the organization, would present and receive information and views on behalf of the Service, and could coordinate joint activities. The essential factor here is that your only duty would be to the Government thus avoiding the conflicting obligations inherent in serving in a fiduciary capacity to an outside organization while in your official capacity.

D. You may serve a non-Federal organization as a director, officer, or trustee in a purely private capacity as an outside activity, but such activities raise their own ethics concerns. You must comply with all applicable rules covering outside activities (such as the need for prior authorization and the prohibition against unauthorized use of official time and equipment for outside activities), you must recuse yourself from a Service matter that affects a financial interest of the organization, and you must avoid any appearance of using your office for private gain of the organization.

4.18 What are the penalties for violations? If you are found in violation of any of the above, you may be subject to criminal and civil penalties and to appropriate corrective, remedial, or disciplinary action. Such disciplinary action may include but is not limited to:

A. Oral or written warning or admonishment.

B. Written reprimand.

C. Suspension from duty without pay.

D. Reassignment.

E. Reduction in pay.

F. Removal from office.